

DEPARTMENT OF TREASURY

MICHIGAN MERIT AWARD BOARD

**MICHIGAN EDUCATIONAL ASSESSMENT PROGRAM TESTING
PRACTICES**

Filed with the Secretary of State on

These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the Michigan merit award board by section 9 of 1999 PA 94,
MCL 390.1459)

R 390.1521 to R 390.1532 are added to the Michigan Administrative Code as follows:

R. 390.1521 Definitions.

Rule 1. As used in these rules:

- (a) "Consequence" means 1 or more of the consequences described in R 390.1530.
- (b) "Investigation" means an investigation by an independent investigator appointed by the MEAP office pursuant to R 390.1528.
- (c) "MEAP" means the Michigan educational assessment program.
- (d) "MEAP office" means the office of educational assessment.
- (e) "Prohibited practice" means 1 or more of the practices described in R 390.1522 to R 390.1525.
- (f) "School district" includes, but is not limited to, a local or intermediate school district, a public school academy, a school district, or a school.
- (g) "School district personnel" includes, but is not limited to, local or intermediate school district, public school academy, school district, or school administrators and personnel or their agents, including teachers and assessment proctors, or other persons responsible for administering a MEAP test.
- (h) "Superintendent" means the superintendent of a school district or his or her designee.

R. 390.1522 Prohibited test preparation practices before MEAP testing session.

Rule 2. Before a MEAP testing session, a school district or school district personnel shall not do any of the following:

- (a) Release to a student, discuss with a student or colleague, include in practice materials, or otherwise use any current or other unreleased MEAP test question. This prohibition also applies to unreleased MEAP test questions that have been modified or altered.
- (b) Limit classroom teaching solely to skills, strategies, and concepts measured by MEAP tests to the exclusion of skills, strategies, and concepts contained in the Michigan curriculum framework but not measured by the MEAP.
- (c) Drill students on MEAP test questions or MEAP-like test questions and answers so that students are guided toward and/or required to memorize specific answers to such questions.

(d) Exclude one or more students from a MEAP test for reasons not expressly permitted by law or by the Michigan Merit Award Board.

(e) Administer the HST MEAP test to a tenth grade student unless the student's parent or guardian requests the school or school district to allow the student to take the test so that the student may dually enroll in high school and college courses in the eleventh grade.

(f) Request or otherwise solicit a parent to exclude a student from taking a MEAP test.

(g) Engage in any other practice that compromises the validity of a student's test score as an accurate and reliable measure of the student's knowledge of the subject matter being tested.

R. 390.1523 Prohibited test administration practices during MEAP testing session.

Rule 3. During a MEAP testing session, a school district or school district personnel shall not do any of the following:

(a) Use a gesture, facial expression, body language, comment, or other action that may guide a student response during a MEAP test.

(b) Alter a student response, including but not limited to, darkening, rewriting, correcting, editing, or erasing, including erasure of one or more multiple responses a student has given to a multiple-choice question.

(c) Read aloud, define, explain, or interpret a test question except when expressly directed to do so by the instructions. This prohibition also applies to the administration of a MEAP test to students of limited English proficiency and students with disabilities unless such accommodation is specifically authorized in the student individualized education plan.

(d) Allow collaboration or communication among students taking the test except when expressly allowed by the instructions. This prohibition also applies to the administration of a MEAP test to students with disabilities and students of limited English proficiency.

(e) Schedule a break from testing during administration of any individual part of the test.

(f) Post answers to test questions, text related to written test answers, or any other material specifically related to MEAP tests, either inside or near a testing room.

(g) Prompt students to reconsider, review, or reevaluate any response to a MEAP test question.

(h) Suggest or engage in a practice that allows a student to retrieve an answer document after completing a test, or that allows a student to complete, revise, delete, correct, or alter a response to previously completed sections of a MEAP test.

(i) Engage in any other practice that compromises the validity of a student's test score as an accurate and reliable measure of the student's knowledge of the subject matter being tested.

R. 390.1524 Prohibited test administration practices after MEAP testing session is completed.

Rule 4. After a MEAP testing session is completed, a school district or school district personnel shall not do any of the following:

- (a) Fail to return the answer documents for each student who took the test.
- (b) Fail to return or destroy a MEAP test booklet when appropriate.
- (c) Make copies of a test booklet.
- (d) Alter a student response, including but not limited to, darkening, rewriting, correcting, editing or erasing, including erasure of one or more multiple responses a student has given to a multiple-choice question.
- (e) Suggest or engage in a practice that allows a student to retrieve an answer document after completing a test, or that allows a student to complete, revise, delete, correct, or alter a response to previously completed sections of a MEAP test.
- (f) Participate in, direct, aid, counsel, assist, encourage, or fail to report any of the actions prohibited by this section, or engage in a similar action designed to artificially increase the test scores of a student.
- (g) Engage in any other practice that compromises the validity of a student's test score as an accurate and reliable measure of the student's knowledge of the subject matter being tested.

R. 390.1525 Prohibited test administration practices by student; self-reporting of prohibited practice by student.

Rule 5. (1) Before, during, or after a MEAP testing session, a student shall not do any of the following:

- (a) Communicate or collaborate in any way with another student.
- (b) Copy another student's answers or request or accept any help from another person.
- (c) Use any material or equipment that is not expressly permitted by the MEAP office.
- (d) Answer a test question or any part of a test for another student or provide any other assistance to another student before or while that student is taking a MEAP test.
- (e) Engage in any other practice that compromises the validity of a student's test score as an accurate and reliable measure of the student's knowledge of the subject matter being tested.

(2) A student who engages in a practice prohibited in subrule (1) of this rule is subject to 1 or more of the consequences described in R 390.1530.

(3) If a student observes or becomes aware that a proctor or other person involved in administering a MEAP test has engaged in a prohibited practice, then the student shall be eligible to retake the MEAP test only if he or she notifies the school district within 20 days after observing the prohibited practice.

(4) If a MEAP test proctor observes a student who appears to be engaged in a prohibited practice described in subrule (1) of this rule, then the proctor shall allow the student to finish the test. The proctor shall code the answer document in order to notify the MEAP office that a prohibited practice has or may have occurred. The proctor shall immediately notify the principal at the school building of the prohibited practice. The principal shall, in writing, notify the student and his or her parents of the prohibited

practice that is alleged and provide them with an opportunity to respond. If the principal determines that the student has not engaged in a prohibited practice and notifies the MEAP office in writing within 20 days after the date of the prohibited practice that the test score should not be invalidated, then the office shall not invalidate the student's score and the score shall be used for Merit Award purposes. If the principal does not notify the MEAP office in the time prescribed, then the office shall invalidate the student's score and the score shall not be used for Merit Award purposes.

R. 390.1526 Self-reporting by school district of prohibited practice.

Rule 6. (1) Within 10 days after observing or becoming aware of one or more of the prohibited practices described in R 390.1522 to R 390.1524, the superintendent of a school district shall report the practice to the MEAP office.

(2) If a superintendent of a school district reports a prohibited practice to the MEAP office pursuant to subrule (1) of this rule and before the date the MEAP office appoints an investigator under R 390.1528, then the MEAP office shall not conduct an investigation or convene an independent panel. The MEAP office, however, may impose an appropriate consequence.

(3) If a superintendent of a school district reports a prohibited practice to the MEAP office during the MEAP test window, then the MEAP office shall, if practicable, allow the school district to retest students at the school district's expense.

R. 390.1527 MEAP office review of third party allegation or scoring alert by testing contractor.

Rule 7. (1) If the MEAP office receives a third party allegation or scoring alert that suggests or indicates that a prohibited practice has occurred, then it shall conduct a preliminary internal review of the allegation or scoring alert to determine whether a prohibited practice has or may have occurred.

(2) If the MEAP office determines that a prohibited practice has not occurred, then it shall not conduct an investigation and shall not impose a consequence.

(3) If the MEAP office determines that a prohibited practice has or may have occurred, then it shall appoint an investigator and notify the appropriate school district superintendent that an investigator has been appointed.

R. 390.1528 Investigation.

Rule 8. (1) If an investigation is conducted under these rules, the MEAP office shall appoint an experienced, independent investigator to investigate the alleged prohibited practice.

(2) After an investigation begins, all communications among the school district, the investigator, and the MEAP office are confidential and shall not be disclosed except as provided for in R 390.1531. During the investigation, the MEAP office, the school district, and the investigator shall conduct themselves in such a way as to ensure that the rights of students and school district officials and employees are protected and that the investigation is conducted in a fair and objective manner.

(3) Within 20 days after being appointed under subrule (2) of this rule, an investigator shall complete the investigation, prepare a written report of the investigation, including

his or her findings concerning whether a prohibited practice occurred, and provide a copy of the report to the MEAP office and the school district.

(4) If, after review of the investigator's report, the MEAP office determines that a prohibited practice has not occurred, the MEAP office shall not impose a consequence. Within 10 days after receipt of the investigator's report, the MEAP office shall notify the school district of its determination.

(5) If, after review of the investigator's report, the MEAP office determines that a prohibited practice has occurred, then the MEAP office shall within 10 days after receipt of the investigator's report notify the school district of its determination.

(6) Within 10 days after receiving the MEAP office's determination, the school district shall provide the MEAP office with a written response to the determination.

(7) If the school district agrees with the MEAP office that a prohibited practice has occurred, then the MEAP office shall impose 1 or more of the consequences described in R 390.1530.

(8) If the school district does not agree with the office that a prohibited practice has occurred, then the MEAP office shall convene an independent review panel pursuant to R 390.1529.

(9) The MEAP office shall pay for the cost of an investigation. If the investigator determines that a school district or student in the school district has engaged in a prohibited practice, and that determination is not overturned by an independent review panel, then the school district shall reimburse the MEAP office for the cost of the investigation.

R. 390.1529 Independent review panel.

Rule 9. (1) If a school district does not agree with the MEAP office determination under R 390.1528 that a prohibited practice has occurred, then the MEAP office shall convene an independent review panel to conduct a review to determine whether a prohibited practice has occurred.

(2) In conducting the review, the panel shall review the investigator's report and any other information provided it by the MEAP office or school district of the investigator's findings and recommendations and the school district's written response.

(3) The MEAP office shall convene the panel within 10 days after receiving the school district's written response.

(4) After completing the review described in subrule (1) of this rule, the panel shall within 20 days after being convened, determine whether a prohibited practice has occurred and notify the MEAP office of that determination.

(5) If the panel determines that a prohibited practice has not occurred, then the MEAP office shall not impose a consequence and shall, within 5 days after receiving the panel's determination, notify the school district of the panel's determination and that no consequence shall be imposed.

(6) If the panel determines that a prohibited practice has occurred, then the MEAP office shall, within 5 days after receiving the panel's determination, notify the school district of the panel's determination and of the consequence that shall be imposed.

(7) The MEAP office shall impose the consequence within 5 days after the notice under subrule (6) of this rule is provided to the school district.

(8) An independent review panel shall consist of 3 members to be appointed by the MEAP office. A panel member shall not be a current or former employee or board member of the school district. Panel members shall not be paid for their services, but may be reimbursed by the MEAP office for their reasonable travel expenses in accordance with state of Michigan travel regulations.

R. 390.1530 Consequences.

Rule 10. (1) If it is determined pursuant to these rules that a prohibited practice has occurred, then the MEAP office shall impose either, or both,, of the following consequences:

(a) Send a letter of warning to the school district. The letter of warning shall require the school district to take immediate and appropriate action to ensure that the prohibited practice will not occur in the future and shall recommend the specific actions that the school district should take to prevent a reoccurrence of the prohibited practice.

(b) Invalidate the affected MEAP test scores.

(2) A consequence imposed by the MEAP office is a matter of public record. However, if a school district requests the MEAP office to invalidate an individual student's MEAP test score, the MEAP office shall not disclose the identity of the student pursuant to the Family Education Rights & Privacy Act, 20 U.S.C. 1234 CFR Part 99.

(3) If MEAP test results at an elementary school are invalidated pursuant to subrule (1) of this rule, then that school shall not be eligible for a Golden Apple Award for the academic year in which the prohibited practice occurred.

(4) If a prohibited practice occurs in a single school or school district, and it directly or indirectly compromises the results of MEAP tests in another school or school district, then the MEAP office shall invalidate the test results of all of the MEAP tests in that other school or school district. In such case, the MEAP office shall, if practicable, permit students in that other school or school district to take an alternate form of the invalidated test.

(5) If a consequence is imposed pursuant to these rules, then the MEAP office shall within 5 days of the date the consequence is imposed, provide written notice to the Michigan merit award board of the unacceptable practice and the consequence imposed.

(6) The MEAP office shall not impose a consequence against an individual school district employee. Any personnel action taken is the prerogative of the school district, not the MEAP office.

R. 390.1531 Due process.

Rule 11. (1) The MEAP office shall do both of the following:

(a) Maintain the confidentiality of any office, school district, investigator, or independent review panel communications, documents, or other information concerning the review, investigation, and outcome of an alleged prohibited practice until a consequence is imposed under these rules.

(b) If a consequence is imposed pursuant to these rules, notify the school district or student of their right to commence a contested case pursuant to Chapter 4 of the Administrative Procedures Act, 1969 PA 306, MCL 24.271 et seq.

(2) A school district, investigator, member of an independent review panel, and any other person that possesses any MEAP office, school district, investigator, or independent

review panel communications, documents, or other information concerning the review, investigation, and outcome of an alleged prohibited practice shall maintain the confidentiality of those documents.

R. 390.1532 List of recommended MEAP test administration practices.

Rule 12. The MEAP office shall develop a list of recommended MEAP test administration practices. The MEAP office shall post the list on the MEAP office website and provide a copy of the list to any person who requests one before the next testing session.